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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,927	06/23/2003	Yasuhito Miyata	78731	8015

22242 7590 12/29/2004

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EXAMINER

ROSENBERG, LAURA B

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,927

Applicant(s)

MIYATA, YASUHIRO

Examiner

Laura B Rosenberg

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The preliminary amendment filed 22 September 2003, has been entered.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugiura et al. (5,362,101). Sugiura et al. disclose:

- Airbag apparatus (#18) for protecting a rider in the event of front collisions
- Airbag (#26) for being deployed in predetermined directions relative to rider movement due to frontal collisions (best seen in figures 1-12)
- Inflation/direction control means/member (including tethers #36) for restricting inflation in one direction (#X) that is generally aligned with rider movement and allowing inflation in another direction (#W) transverse (generally vertical direction) to the one direction (best seen in figures 1-4)
- Inflator (#34)

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- Airbag has central panel (#26A) and side panels (#26B)
- Connectors (#36A, 36B) attached to central and side panels (column 4, lines 28-37) at rearward position (#36B) and forward position (#36A)
- Tether connections include a generally upper connection (best seen in figures 2, 4, 6) beyond which the airbag extends when inflated (best seen in figures 1-6)
- Forward connection (#36A) comprises a pair of laterally spaced connections (best seen in figures 2, 4, 6)
- Inflation control means increases rigidity in one direction (#X) over rigidity in other direction (#W; best seen in figures 1-4)
- Tethers (#36) extend generally in a fore and aft direction (best seen in figure 2)
- Recess formed in airbag (best seen in figures 1, 3)
- Retainer (#22)
- Airbag inflates in a generally upward direction, maximizing inflation in the upward direction and restricting inflation in a forward and rearward direction (best seen in figures 1, 3, 4)

The phrase "for a motorcycle" leads to the intended use of the airbag apparatus. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations, provided that the prior art apparatus is able to be used in the manner set forth by the intended use phrase. In this case, Sugiura et al.'s airbag apparatus is able to be used for a motorcycle.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zelenak, Jr. et al., Moriset, Onishi et al., Hawthorn et al., Prescaro et al., MacBrien et al., Dyer et al., and Tokita et al. each disclose an airbag apparatus for protecting a ride in the event of frontal collisions comprising an airbag and inflation control tethers. Chinn et al. disclose an airbag apparatus for a motorcycle for protecting a rider in the event of frontal collisions.

6. Though not considered prior art based on the applicant's filing and priority dates, Kurata et al. and Iijima et al. each disclose an airbag apparatus for a motorcycle for protecting a rider in the event of frontal collisions comprising an airbag and inflation control tethers.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura B Rosenberg
Patent Examiner
Art Unit 3616

LBR


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